

SENATE BILL 726

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HB 286/97 - JUD

1998 Regular Session
8r2661
CF HB 606

By: **Senator Hughes**

Introduced and read first time: February 19, 1998

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Proceedings - Judgments - Exemptions from Execution**

3 FOR the purpose of increasing the amounts that are exempt from execution on a
4 judgment for certain categories of property; providing that a specific interest in
5 certain property used as a primary residence is exempt from execution on a
6 judgment; providing for a certain exception; providing that an individual debtor
7 may exempt the debtor's interest in real or personal property up to any unused
8 amount under a certain exemption; requiring a sheriff to appraise certain
9 property subject to execution; providing that a debtor may not waive certain
10 exemptions from execution; repealing a certain exemption from execution;
11 providing for the application of this Act; and generally relating to exemptions
12 from execution on a judgment for certain categories of property.

13 BY repealing and reenacting, with amendments,
14 Article - Courts and Judicial Proceedings
15 Section 11-504
16 Annotated Code of Maryland
17 (1995 Replacement Volume and 1997 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Courts and Judicial Proceedings**

21 11-504.

22 (a) (1) In this section, the following terms have the meanings indicated.

23 (2) "Value" means fair market value as of the date upon which the
24 execution or other judicial process becomes effective against the property of the
25 debtor, or the date of filing the petition under the United States Bankruptcy Code.

26 (b) The following items are exempt from execution on a judgment:

1 (1) Wearing apparel, books, tools, instruments, or appliances, in an
2 amount not to exceed [~~\$2,500~~] \$4,500 in value necessary for the practice of any trade
3 or profession except those kept for sale, lease, or barter.

4 (2) Money payable in the event of sickness, accident, injury, or death of
5 any person, including compensation for loss of future earnings. This exemption
6 includes but is not limited to money payable on account of judgments, arbitrations,
7 compromises, insurance, benefits, compensation, and relief. Disability income
8 benefits are not exempt if the judgment is for necessities contracted for after the
9 disability is incurred.

10 (3) Professionally prescribed health aids for the debtor or any dependent
11 of the debtor.

12 (4) The debtor's interest, not to exceed [\$500] \$1,000 in value, in
13 household furnishings, household goods, wearing apparel, appliances, books, animals
14 kept as pets, and other items that are held primarily for the personal, family, or
15 household use of the debtor or any dependent of the debtor.

16 (5) Cash or property of any kind equivalent in value to [~~\$3,000~~] \$5,000 is
17 exempt, if within 30 days from the date of the attachment or the levy by the sheriff,
18 the debtor elects to exempt cash or selected items of property in an amount not to
19 exceed a cumulative value of [~~\$3,000~~] \$5,000.

20 (C) IN ADDITION TO THE EXEMPTIONS PROVIDED UNDER SUBSECTION (B) OF
21 THIS SECTION, THE DEBTOR'S AGGREGATE INTEREST, NOT TO EXCEED \$15,000, IN
22 REAL OR PERSONAL PROPERTY THAT THE DEBTOR OR A DEPENDENT OF THE
23 DEBTOR USES AS A PRIMARY RESIDENCE, OR IN A COOPERATIVE THAT THE DEBTOR
24 OR A DEPENDENT OF THE DEBTOR USES AS A PRIMARY RESIDENCE, IS EXEMPT FROM
25 EXECUTION ON A JUDGMENT.

26 (D) (1) IN ADDITION TO THE EXEMPTIONS PROVIDED IN SUBSECTION (B) OF
27 THIS SECTION, AND IN OTHER STATUTES OF THIS STATE, AN INDIVIDUAL DEBTOR
28 DOMICILED IN THIS STATE MAY EXEMPT, SUBJECT TO THE PROVISIONS OF
29 PARAGRAPH (2) OF THIS SUBSECTION, THE DEBTOR'S AGGREGATE INTEREST IN REAL
30 OR PERSONAL PROPERTY UP TO ANY UNUSED AMOUNT OF THE EXEMPTION
31 PROVIDED UNDER SUBSECTION (C) OF THIS SECTION.

32 (2) IF THE PRIMARY RESIDENCE OF THE DEBTOR IS EXEMPT FROM
33 EXECUTION BY OPERATION OF LAW DUE TO ITS STATUS AS PROPERTY HELD AS
34 TENANCY BY THE ENTIRETIES, THE DEBTOR MAY NOT CLAIM THE EXEMPTION
35 PROVIDED UNDER THIS SUBSECTION EXCEPT, IF THE DEBTOR'S INTEREST IN
36 PROPERTY HELD AS TENANCY BY THE ENTIRETIES IS LESS THAN \$15,000, THE
37 DEBTOR MAY CLAIM THE DIFFERENCE BETWEEN THAT INTEREST AND \$15,000.

38 [(c)] (E) (1) In order to determine whether the property listed in
39 [subsection] SUBSECTIONS (b)(4) and (5), (C), AND (D) of this section is subject to
40 execution, the sheriff shall appraise the property at the time of levy. The sheriff shall
41 return the appraisal with the writ.

1 (2) An appraisal made by the sheriff under this subsection is subject to
2 review by the court on motion of the debtor.

3 (3) Procedures will be as prescribed by rules issued by the Court of
4 Appeals.

5 [(d)] (F) The debtor may not waive, by cognovit note or otherwise, the
6 provisions of subsections (b), (C), (D), and [(h)] (I) of this section.

7 [(e)] (G) The exemptions in this section do not apply to wage attachments.

8 [(f)] In addition to the exemptions provided in subsection (b) of this section, and
9 in other statutes of this State, in any proceeding under Title 11 of the United States
10 Code, entitled "Bankruptcy", any individual debtor domiciled in this State may
11 exempt the debtor's aggregate interest, not to exceed \$2,500 in value, in real property
12 or personal property.]

13 [(g)] (H) In any bankruptcy proceeding, a debtor is not entitled to the federal
14 exemptions provided by § 522(d) of the United States Bankruptcy Code.

15 [(h)] (I) (1) In addition to the exemptions provided in subsections (b) [and
16 (f)], (C), AND (D) of this section and any other provisions of law, any money or other
17 assets payable to a participant or beneficiary from, or any interest of any participant
18 or beneficiary in, a retirement plan qualified under § 401(a), § 403(a), § 403(b), § 408,
19 § 414(d), or § 414(e) of the United States Internal Revenue Code of 1986, as amended,
20 or § 409 (as in effect prior to January 1984) of the United States Internal Revenue
21 Code of 1954, as amended, shall be exempt from any and all claims of the creditors of
22 the beneficiary or participant, other than claims by the Department of Health and
23 Mental Hygiene.

24 (2) Paragraph (1) of this subsection does not apply to:

25 (i) An alternate payee under a qualified domestic relations order,
26 as defined in § 414(p) of the United States Internal Revenue Code of 1986, as
27 amended;

28 (ii) A retirement plan, qualified under § 401(a) of the United States
29 Internal Revenue Code of 1986, as amended, as a creditor of an individual retirement
30 account qualified under § 408 of the United States Internal Revenue Code of 1986, as
31 amended; or

32 (iii) The assets of a bankruptcy case filed before January 1, 1988.

33 (3) The interest of an alternate payee in a plan described in [subsection
34 (h)(1)] PARAGRAPH (1) of this [section] SUBSECTION shall be exempt from any and
35 all claims of any creditor of the alternate payee, except claims by the Department of
36 Health and Mental Hygiene.

37 (4) If a contribution to a retirement plan described under paragraph (1)
38 of this subsection exceeds the amount deductible under the applicable provisions of

1 the United States Internal Revenue Code of 1986, as amended, the portion of that
2 contribution that exceeds the amount deductible, and any accrued earnings on such a
3 portion, are not exempt under paragraph (1) of this subsection.

4 SECTION 2. AND BE IT FURTHER ENACTED, That, in a bankruptcy case,
5 this Act shall be construed only prospectively and may not be applied or interpreted to
6 have any effect on or application to any case filed before the effective date of this Act.

7 SECTION 3. AND BE IT FURTHER ENACTED, That, in a nonbankruptcy case,
8 this Act shall be construed only prospectively and shall apply to any attachment or
9 levy of property after the effective date of this Act.

10 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 1998.